

A RESOLUTION BY CITY UTILITIES COMMITTEE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT WITH POST ALEXANDER II, LLC, FOR THE CONSTRUCTION AND OPERATION OF TEMPORARY TIE-BACK SUPPORTS UNDER THE RIGHT-OF-WAY OF PHIPPS BOULEVARD, NE AND LENOX ROAD, NE; AND FOR OTHER PURPOSES.

Review List:

Santana Wright	Completed	05/17/2013 3:59 PM
Rita Braswell	Completed	05/17/2013 4:04 PM
Richard Mendoza	Completed	05/20/2013 4:27 PM
Saul Sschultz	Completed	05/20/2013 5:01 PM
Mayor's Office	Completed	05/20/2013 5:40 PM
Office of Research and Policy Analysis	Completed	05/21/2013 8:57 AM
City Utilities Committee	Pending	
Atlanta City Council	Pending	

Certified by Presiding Officer	Certified by Clerk
Mayor's Action	
See Authentication Page Attachment	

**RESOLUTION
BY CITY UTILITIES COMMITTEE**

A RESOLUTION BY CITY UTILITIES COMMITTEE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT WITH POST ALEXANDER II, LLC, FOR THE CONSTRUCTION AND OPERATION OF TEMPORARY TIE-BACK SUPPORTS UNDER THE RIGHT-OF-WAY OF PHIPPS BOULEVARD, NE AND LENOX ROAD, NE; AND FOR OTHER PURPOSES.

WHEREAS, Post Alexander II, LLC (“the owner”) proposes to construct an expansion of the Post Alexander Apartment Homes on property located at 600 Phipps Boulevard, N.E. in Atlanta, Georgia, said property being in Land Lots 44 & 45, 17th District, Fulton County; and

WHEREAS, a temporary tie-back support system is required for the construction of perimeter cast-in-place concrete retaining walls for below grade parking levels on Phipps Boulevard, N.W. and Lenox Road, N.E.; and

WHEREAS, the City of Atlanta’s (“City”) Code of Ordinances, at Sections 138-22 and 138-24, requires that an Encroachment Agreement be entered into between the City and the owner for authorization to allow the temporary tie-back support system to be installed under the public right-of-way and for authorization for the owner to continue to maintain the temporary tie-back support system under the public right-of-way; and

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the proposed facilities and has determined that said plans meet the technical requirements set forth in Section 138-24(b) of the City of Atlanta Code of Ordinances.

WHEREAS, the owner desires to maintain the temporary tie-back support system; and

WHEREAS, the owner has agreed to conform to the conditions set out in the City’s Code of Ordinances at Sections 138-22 and 138-24.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement, as outlined in Section 138, Article II of the Official Code of the City of Atlanta, with Post Alexander II, LLC for the construction, installation, operation, use and maintenance of temporary tie-back supports in the public right-of-way of 600 Phipps Boulevard, N.E as depicted in Exhibit “A” attached hereto.

BE IT FURTHER RESOLVED, that the temporary tie-back support system shall be comprised of 23 tie-backs installed along Phipps Boulevard, N.E. and 14 tie-backs installed along Lenox Road, N.E.

BE IT FURTHER RESOLVED, that Post Alexander II, LLC shall indemnify the City for any damages to property within the public right-of-way resulting from the construction, installation, operation, use, maintenance and removal of said supports.

BE IT FURTHER RESOLVED, that Post Alexander II, LLC shall comply with the conditions set out at Sections 138-22 and 138-24 of the City's Code of Ordinances.

BE IT FURTHER RESOLVED, that the City Attorney is directed to prepare an Encroachment Agreement, acceptable as to form, for execution by the Mayor and Post Alexander II, LLC.

BE IT FINALLY RESOLVED, that the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the Agreement has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to Post Alexander II, LLC.